

SENATE BILL 1299
By Cooper

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 2, Part 1; Title 67, Chapter 4, Part 14; Title 67, Chapter 4, Part 20; Title 67, Chapter 4, Part 21; Title 67, Chapter 4, Part 7 and Title 67, Chapter 6, relative to film production.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-2009, is amended by adding the following language as a new subdivision:

(10)

(A) As used in this subdivision (10), unless the context otherwise requires:

(i) "Department" means the department of revenue;

(ii) "Film" means a feature film, a television series and a television show of thirty (30) minutes or more in length, intended for a national audience. "Film" does not mean a production featuring news, current events, weather and market reports, or public programming, talk show, game show, sports event, awards show or other gala event, a production that solicits funds, a production containing obscene material or performances or a production primarily for private, industrial, corporate or institutional purposes;

(iii) "Production expense" means an expense incurred in the production of a film and includes that portion of wages and salaries of individuals employed in the production of a film on which the taxes imposed by this part have been paid or accrued; the costs of construction,

operations, editing, photography, sound synchronization, lighting, wardrobe and accessories; and the cost of rental of facilities and equipment. "Production expense" does not mean expenses incurred in marketing, distributing or advertising a film;

(iv) "Qualified film production expense" means a Tennessee production expense if at least sixty percent (60%) of the total production expenses are Tennessee production expenses;

(v) "Taxpayer" means an entity subject to tax under this part; and

(vi) "Tennessee production expense" means a production expense incurred in this state.

(B)

(i) A taxpayer who incurs a qualified film production expense in a taxable year may apply for a film production tax credit as provided in this subdivision (10) against the tax liability imposed by this part. A taxpayer seeking a credit under this subdivision must submit an application to the department by February 15 for qualified film production expenses incurred in the taxable year that ended in the prior calendar year.

(ii) A taxpayer that is qualified under subdivision (10)(B)(i) shall receive a film production tax credit for the taxable year in the amount of twenty-five percent (25%) of the qualified film production expenses.

(iii) By August 15 of the calendar year following the close of the taxable year during which the qualified film production expense was incurred, the department shall notify the taxpayer of the amount of the taxpayer's film production tax credit approved by the department.

(C)

(i) If a taxpayer cannot use the entire amount of the film production tax credit for the taxable year in which the film production tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the tax liability of the taxpayer for those taxable years. Each time that the film production tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The film production tax credit provided by this subdivision (10) may be carried over and applied to succeeding taxable years for no more than five (5) taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(ii) A film production tax credit approved by the department for qualified film production expenses in a taxable year first shall be applied against the taxpayer's tax liability for the current taxable year as of the date on which the credit was approved before the film production tax credit can be applied against any tax liability under subdivision (10)(C)(i).

(iii) A taxpayer is not entitled to carry back or obtain a refund of an unused film production tax credit.

(iv) A film production tax credit shall not be sold or assigned.

(D) In prescribing standards for determining which production expenses are considered qualified film production expenses for purposes of computing the credit provided by this subdivision (10), the department shall consider:

(i) The location where the services are performed;

(ii) The residence or business location of the person or persons performing the service;

(iii) The location where qualified film production supplies are consumed; and

(iv) Any other factors established by the department which are necessary for determination.

(E)

(i) The total amount of credits approved by the department shall not exceed ten million dollars (\$10,000,000) in any fiscal year.

(ii) If the total amount of film production tax credits applied for by all taxpayers exceeds the amount allocated for those credits, then the film production tax credit to be received by each applicant shall be the product of the allocated amount multiplied by the quotient of the film production tax credit applied for by the applicant divided by the total of all film production tax credits applied for by all applicants, the algebraic equivalent of which is:

taxpayer's film production tax credit = amount allocated for those credits X (film production tax credit applied for by the applicant/total of all film production tax credits applied for by all applicants).

(F) The commissioner shall submit an annual report to the general assembly indicating the effectiveness of the credit provided by this subsection no later than March 15 following the year in which the credits were approved. The report shall include the names of all taxpayers utilizing the credit as of the date of the report and the amount of credits approved and utilized. The report may also include any recommendations for changes in the calculation or administration of the credit.

(G) The department shall not approve a film production tax credit under this subdivision for taxable years ending after December 31, 2010.

SECTION 2. The commissioner of revenue is authorized to promulgate rules and regulations to effectuate the provisions of this act.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to tax years beginning on or after January 1, 2006.